

REMARKS

By this Amendment, Claims 1 and 14 have been amended, and Claim 13 has been deleted, without prejudice, to place this application in immediate condition for allowance.

In the outstanding Final Office Action, the Examiner has rejected Claims 1-5, 7 and 15-16 under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,193,318 of which co-Applicant D'Antonio is a co-inventor (the '318 patent) in view of U.S. Patent No. 4,821,839 of which co-Applicant D'Antonio is a co-inventor (the '839 patent). In making this ground of rejection, the Examiner has conceded that the '318 patent fails to teach means permitting sound waves to travel from the front surface to the rear surface through the body. In an attempt to cure this admitted deficiency of the '318 patent, the Examiner has relied upon the teachings of the '839 patent which the Examiner alleges "teaches means permitting sound waves to travel from a front surface to a rear surface (Fig. 2:21) through the body (col. 2: 10-20)." In response, the Examiner has mischaracterized the teachings of the '839 patent in making this ground of rejection. While it is true that the back wall 21 of the device 10 of the '839 patent is disclosed as being made of a sound absorbing material (col. 3, lines 51-57), there is no teaching or suggestion in the '839 patent that sound waves entering the back wall 21 of the sound absorbing diffuser 10 travel a sufficient distance to be able to arrive at

the rear surface thereof. In fact, as is well known to those of ordinary skill in the art, the thickness of the rear wall 21, seen in Fig. 2, is chosen to ensure that sound waves cannot travel completely through the wall 21. In other words, the thickness of the wall 21 is sufficient to ensure that all sound is absorbed well before any sound waves could possibly travel to the rear wall thereof.

Thus, it is clear that the '839 patent fails to teach or suggest the subject matter recited in independent Claim 1 as previously presented, namely, "means permitting sound waves to travel from said front surface to said rear surface through said body ...".

Thus, it is respectfully submitted that the ground of rejection set forth in the outstanding Final Office Action attempting to combine together the '318 patent and the '839 patent is without basis in patent law and must be withdrawn.

In order to expedite the prosecution of this patent application, independent Claim 1 has been amended to make it clear that the inventive body is "non-sound absorbing" and to further recite "sound absorbing means on said rear surface of said body for absorbing sound waves below a desired cut-off frequency." These limitations find clear support in the application as originally presented. For example, on page 8 of the originally filed specification, the teachings of U.S. Patent No. 5,401,921 are

incorporated by reference. In that patent, disclosure is made of a 2-dimensional primitive root diffusor. At column 9, beginning at line 49, the following is disclosed:

"Applicants have found that using glass reinforced gypsum or glass reinforced plastic are suitable approaches."

As is well known to those of ordinary skill in the art, these materials are not sound absorbent. Concerning the recitation of sound absorbing means on the rear surface of the body, clear support is found for this limitation with reference to Figures 1, 2, 4a, 7, 9-10, 11 and 13 and the corresponding pages of the specification.

The prior art fails to teach or suggest the combination of a sound diffusor having a non-sound absorbing body and with means permitting sound waves to travel through the body to a rear surface where the sound may be absorbed. As such, it is respectfully submitted that the claims as amended are in condition for allowance. Accordingly, reconsideration and allowance of this application are respectfully solicited.

While this application is under final rejection, it is respectfully submitted that this Amendment should be entered. First, the Amendment reduces the issues that would be present on Appeal by deleting dependent Claim 13 and incorporating a slightly broader version of its limitations into Claim 1. Second, there is no reason to conduct a further search since the closest prior art

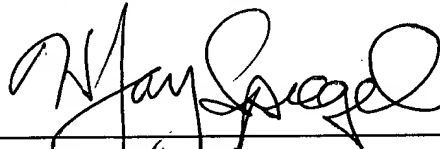
is already of record, mainly including a number of patents for which co-Applicant D'Antonio is a co-inventor. With relatively little consideration, it should be clear that the claims clearly patentably distinguish from all of the prior art of record and should be allowed. For these reasons, it is respectfully requested that the Amendment be entered and the application be passed to issue.

If, for any reason, the Examiner believes that an interview with Applicants' Attorney would be helpful in expediting the prosecution of this patent application, the Examiner is respectfully requested to telephone Applicants' Attorney locally at (703) 619-0101 so that a discussion of any outstanding issues may be had.

Again, reconsideration and allowance of this application are respectfully solicited.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read "H. Jay Spiegel", is written over a horizontal line.

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